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TAGS: [PREL](#) [PGOV](#) [PINS](#) [AF](#)  
SUBJECT: PROPOSED AFGHANISTAN DETAINEE MONITORING STRATEGY

Classified By: Assistant Chief of Mission Joseph Mussomeli for Reasons  
1.4 (b) and (d)

¶1. (U) This cable includes an action request; please see paragraph 10.

¶2. (S/REL ISAF) SUMMARY: In response to the President's executive order banning torture, the Washington interagency Task Force on Interrogation and Transfer Policies recommended that Embassy Kabul develop a plan to physically monitor the status of detainees transferred by U.S. forces under ISAF command to GIROA custody. Monitoring is complicated by the scale of U.S. detention operations. We believe an effective monitoring strategy therefore must leverage NGO and Afghan government (GIROA) support, and include:

- DoD commitment to create a detainee tracking system and adopt a policy to transfer detainees only to vetted NDS facilities;
- prompt notification of human rights monitoring groups when detainees are transferred to the Afghan government;
- ,smart monitoring,, of targeted Afghan detention facilities by State personnel and NGOs; and,
- continued U.S. human rights mentoring and training for Afghan detaining authorities.

We propose to have State officers assigned to Embassy Kabul and subordinate PRTs monitor National Directorate of Security detention facilities in Kabul, Regional Command South (RC-S) and Regional Command East (RC-E). We request the support of State and/or DoD to conduct an initial survey of all detention facilities to which U.S. forces under ISAF authority presently transfer detainees in order to develop a baseline against which to judge detention conditions and to identify which NDS facilities are concerning and that we should not make transfers to. As we develop the monitoring program it is possible it will have personnel and other resource implications necessitating additional support to the mission. END SUMMARY.

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BACKGROUND  
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¶3. (S) In 2009, the Task Force on Interrogation and Transfer Policies -- a Justice Department-led panel created by President Obama, January 22 executive order banning torture -- recommended that Embassy Kabul physically monitor the status of detainees transferred by U.S. forces under ISAF command to GIROA custody. Post offers the following recommendations for a risk mitigation and monitoring plan.

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THE MONITORING CHALLENGE  
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¶4. (S) The U.S. is the largest detaining and transferring authority in Afghanistan. From January to December 2009, U.S. forces under ISAF detained 643 individuals, and transferred 370 of them to GIROA. While the scale of our detention operations makes a comprehensive

monitoring program challenging, human rights organizations point to a dubious distinction -- we are the only detaining nation in Afghanistan that does not have a monitoring program. Detention operations are further complicated by ISAF's "96-hour rule," which requires our forces to release detainees or transfer them to the GIROA within 96 hours of capture; as a result, our forces typically transfer detainees to the closest Afghan authority. (NOTE: on February 19 the Secretary of Defense authorized detentions of up to 14 days, or transfer to Operation Enduring Freedom detention facilities in cases with exceptional intelligence value; however, most detentions will remain subject to the ISAF 96 hour rule.) In 2009, U.S. Forces under ISAF command and control sent 370 transfers to a wide range of different facilities operated by Afghan detaining authorities including the Ministry of Interior, Ministry of Defense, Ministry of Justice and National Directorate of Security. Moreover, the GIROA releases a majority of transferred detainees within 72 hours, making it even more difficult to institute a monitoring program that tracks each detainee's progress. Monitoring is much easier for our coalition partners whose forces only operate in a single region and therefore only detain a limited number of individuals and can restrict their transfers to a small group of Afghan detention facilities.

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DOD Tracking/Transfer Policy  
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15. (S/REL ISAF) U.S. Forces under ISAF presently do not assign a tracking number to detainees they transfer to the Afghan government. In order to ease monitoring under these complexities, we recommend that U.S. forces under ISAF create a tracking system that allows us to locate all detainees who are ultimately transferred to NDS detention facilities. We also recommend that U.S. forces under ISAF adopt a policy to transfer detainees only to vetted NDS facilities that meet basic human rights standards, as determined by the survey of detention facilities we recommend in paragraph 10.

----- SMART MONITORING WITH SUPPORT OF HUMAN RIGHTS NGOS -----

16. (S/REL ISAF) Rather than monitor all the detainees we transfer to the Afghan government (as personnel and other resource constraints make this unrealistic), we recommend that U.S. forces notify detainee family members (if possible), the Afghan Independent Human Rights Commission (AIHRC) and the International Committee of the Red Cross (ICRC) within 48 hours of transferring a detainee to the GIROA. This allows these bodies to add these detainees to their existing national monitoring regimens and allows us to focus our efforts more narrowly on those the Afghan government is likely to keep in its NDS-operated long-term detention. According to human rights groups that conduct monitoring programs in Afghanistan, torture is more likely to occur within the first hours or days of detention. Yet, reports of mistreatment are more frequently collected through interviews of detainees once they are in longer-term facilities where they feel safer discussing their experience - another reason for us to focus our monitoring on persons in long-term Afghan detention facilities.

17. (S/REL ISAF) We further recommend that the monitoring officers focus on conditions in NDS detention facilities in Kabul, RC-E and RC-S, to which GIROA consigns long-term detainees. These facilities include NDS Department 17 in Kabul and NDS detention facilities in RC-S and RC-E. State monitoring personnel should conduct monthly visits to designated facilities. Rather than interview all detainees, we would randomly select 10 detainees to interview from a list of U.S.-transferred detainees in the facility. The Embassy would work to raise any human rights abuse issues uncovered to the appropriate Afghan authorities and provide

quarterly monitoring reports to JTF 435 and the Task Force on Interrogation and Transfer Policies. It will be imperative that DoD provide assets, including transportation, to enable State monitoring personnel to carry out their responsibilities. As we develop the monitoring program it is possible it will have personnel and other resource implications necessitating additional support to the mission.

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HUMAN RIGHTS TRAINING  
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¶8. (U/REL ISAF) As an extension of a monitoring program, we recommend continuing to provide focused human rights training and mentoring of GIROA correction and detention authorities through existing INL, OGA and JTF 435 mentoring programs for prison, detentions and intelligence personnel. Additionally, we recommend that FSI incorporate detainee monitoring training into its course offerings for Afghanistan-bound PRT and Political-Military affairs officers.

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MOU with NDS  
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¶9. (S) Implementation will require the Embassy to develop and negotiate an MOU with NDS granting us access to their facilities. NDS in December blocked Canadian and British access to its facilities in RC-S. In a subsequent meeting to resolve the issue with NDS, Minister Saleh told the Canadian Embassy that he was frustrated by coalition partners demanding access to NDS facilities absent an MOU with the NDS. He pointed out that their MOUs are with the Ministry of Foreign Affairs or the Ministry of Justice, yet the implementation rests with NDS. He also expressed frustration with each detaining nation requesting a different level of access to NDS facilities (the Canadians require support for surprise visits while the British conduct announced monthly visits). Saleh asked that coalition nations develop a uniform approach to monitoring in order ease the burden on NDS officials. We will continue to work with coalition partners on developing a more common approach. British and Canadian officers have told us that their capitals may be swayed to adjust their monitoring MOUs if the U.S. can negotiate a model MOU that NDS finds helpful and workable.

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ACTION REQUEST  
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¶10. (S/REL ISAF) Before beginning a monitoring program, however, ICRC recommends that we conduct a survey of all NDS detention facilities used in Kabul, RC-E and RC-S. The survey would help us establish a baseline against which to judge detention conditions in various NDS facilities, and help us identify more problematic facilities to which it is not responsible to transfer detainees. Post requests Washington's support in sending two TDY personnel from State and/or DoD for a three-week period to assist with this survey. Post strongly urges DoD to instruct military units to support this civilian mission through operational channels, providing assets including transportation inside Afghanistan.

¶11. (U) Task Force 435 has cleared this cable.  
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